

REMARKS

Applicants thank the Examiner for consideration of the subject patent application. In the office action mailed May 15, 2004, Claims 1-54 were pending, and made subject to a restriction requirement under 35 U.S.C. § 121. Particularly, the Examiner indicated that Claims 1-50 were drawn to a transdermal formulation comprising an aconitine alkaloid, inert carrier and permeation enhancer, etc., classified in class 424, subclass 449 (Group I), and that Claims 51-54 were drawn to a method of ameliorating pain and inflammation comprising transdermally administering an aconitine alkaloid, classified in class 514, subclass 279 (Group II).

Upon closer inspection of the claims, Applicants have discovered that Claim 50 is an independent method claim from which Claims 51-54 depend, and presume that the Examiner meant to include this claim in Group II. Therefore, pursuant to the present election, Claims 50-54 remain for consideration in the present patent application, and Claims 1-49 are withdrawn from consideration.

CONCLUSION

If any impediment remains to examination after consideration of the above-recited remarks, which could be removed during a telephone interview, the Examiner is invited to telephone Mr. David Osborne of this office, or in his absence, the undersigned attorney at (801) 566-6633 so that such issues may be resolved as expeditiously as possible.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 20-0100.

DATED this 15th day of July 2004.

Respectfully submitted,

THORPE, NORTH & WESTERN, LLP



M. Wayne Western
Reg. No. 22,788
8180 South 700 East, Suite 200
Sandy, UT 84070
Customer No. 20,551
Telephone: (801) 566-6633
Facsimile: (801) 566-0750